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REVIEW OF THE ERCOT SCARCITY
PRICING MECHANISM

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PUBLIC UTILITY COMMISSION
OF TEXAS

**VISTRA'S REPLY COMMENTS IN RESPONSE TO MARCH 8, 2021 STAFF REQUEST
FOR COMMENTS**

I. General

Vistra Corp. (Vistra) appreciates the opportunity to offer these reply comments regarding the Public Utility Commission of Texas (Commission) Staff's request for comments on potential changes to the Low System-Wide Offer Cap (LCAP) rule¹ in light of the outcomes from Winter Storm Uri. As an initial matter, Vistra agrees with the majority of commenters that any extensive structural changes to the scarcity pricing mechanism (SPM) (or more broadly to the market design) should not be rushed for this summer.² Instead, the Commission and stakeholders should collaborate on a deliberative and holistic process to evaluate structural changes to ensure that the market is striking the right balance that produces reasonable prices and encourages the availability of adequate dispatchable generation resources, which are needed to ensure a reliable power supply. As part of that review, the Commission should consider ways to moderate the price volatility associated with the current market structure, which recent events have demonstrated, makes it difficult for market participants to hedge against scarcity pricing risk, maintain sufficient collateral, and meet credit requirements.

¹ 16 Tex. Admin. Code (TAC) § 25.505.

² E.g., in addition to Vistra's initial comments, see Calpine Corporation Initial Comments Regarding the Staff Questions at 1, 3-4 (Mar. 19, 2021) (hereafter, Calpine Comments); Comments of Exelon Generation Company LLC at 1-2 (Mar. 19, 2021) (hereafter, Exelon Comments); NRG Energy, Inc. Response to Request for Comments on the Low-System Wide Offer Cap at 2 (Mar. 19, 2021) (hereafter, NRG Comments); Initial Comments of Texas Electric Cooperatives, Inc. at 5 (Mar. 19, 2021) (hereafter, TEC Comments); Texas Competitive Power Advocates (TCPA) Response to the Commission Request for Comments on the Low System-Wide Offer Cap at 1 (Mar. 19, 2021) (hereafter, TCPA Comments); Texas Public Power Association's Initial Comments Regarding Review of the ERCOT Scarcity Pricing Mechanism at 5-6 (Mar. 19, 2021) (hereafter, TPPA Comments).

Realistically, such a holistic, deliberative review of the structure of the wholesale market, including the LCAP/SPM rule, cannot be undertaken quickly, and certainly not in advance of summer 2021, due to the need to incorporate “lessons learned” from Winter Storm Uri, as well as any statutory changes adopted in the pending legislative session. As a stop-gap measure for summer 2021, Vistra continues to advocate for an increase in the LCAP to \$4,500 per megawatt-hour (MWh) (or 50 times the fuel index price (FIP), if higher), in order to provide needed incentives for new and existing resources to come online and be available this summer. Any structural changes to the LCAP/SPM rule—including consideration of suggestions to tie the LCAP to an event- or seasonal-based trigger³—should be deferred until a more holistic review of the market design can be undertaken.

II. Replies

A. The Commission Should Not Hold the LCAP at \$2,000, Eliminate the Alternative FIP Basis, or Reduce the Multiplier for Calculating LCAP for Summer 2021

Some commenters⁴ suggested that the Commission should impose a hard \$2,000/MWh LCAP for summer 2021 and eliminate altogether (or significantly reduce the multiplier for) the alternative FIP basis for calculating LCAP—which provides for the LCAP to be 50 times the FIP, if that value is higher than the flat LCAP value (currently \$2,000/MWh). Vistra opposes these proposals, which seem to value price controls over sound market principles.

As an initial matter, maintaining a hard \$2,000/MWh LCAP value throughout the rest of 2021 dampens forward prices for summer,⁵ which generators rely on to hedge predictable revenue streams. Contrary to arguments that the LCAP sends a “strong message” that resource investment

³ E.g., South Texas Electric Cooperative, Inc.’s Initial Comments to Commission Questions on the Low System-Wide Offer Cap at 4 (Mar. 19, 2021) (hereafter, STEC Comments); TEC Comments at 4-5; Texas Industrial Energy Consumers’ Initial Comments on the Low System-Wide Offer Cap at 7-8 (Mar. 19, 2021) (hereafter, TIEC Comments); Texas Solar Power Association’s Comments at 2 (Mar. 19, 2021) (hereafter, TSPA Comments).

⁴ E.g., Office of Public Utility Counsel’s Initial Comments at 2-3 (Mar. 19, 2021) (hereafter, OPUC Comments); Comments of Potomac Economics at 2-4 (Mar. 19, 2021) (hereafter, IMM Comments); Comments of Texas Coalition for Affordable Power at 2 (Mar. 19, 2021) (hereafter, TCAP Comments).

⁵ As soon as the Commission signaled, in its February 15 and 16, 2021 orders in Project No. 51617, that the LCAP would be instituted (following its suspension during the storm due to concerns that it would exceed the high system-wide offer cap due to the FIP calculation), Vistra observed an immediate and notable decrease in the forward implied market heat rates for the remainder of 2021 – most markedly for July and August peak.

is needed (i.e., because the LCAP is triggered only when theoretical generator net revenues have exceeded the cost of new entry (CONE)),⁶ many generators actually lost money during Winter Storm Uri, thus calling into serious question the suggestion that imposing the LCAP would somehow entice new investment into the market by signaling that resources are scarce. To the contrary, as Texas Solar Power Association's (TSPA's) comments pointed out, the imposition of the LCAP this early in the year (with its associated depressing effect on forward prices for the summer) could delay new generation coming online,⁷ which is a notable comment from a solar energy association when planned solar resources account for roughly 25% of the projected reserve margin capacity this summer and roughly half of the planned capacity included in that calculation⁸—in other words, if a significant portion of those or other projected resources decided to delay their commercial operation date due to insufficient price signals going into summer, the reserve margin could drop significantly.

Further, Winter Storm Uri demonstrated that imposing price controls on electricity does not work if there are not also corresponding controls on the price of natural gas—or at a minimum, natural gas market transparency and oversight—which there currently are not. Imposing such controls on electricity prices in the current energy-only market design is especially problematic given that it depends crucially on scarcity pricing for market entry and exit signals; if those signals are muted or distorted, then another market design will be necessary to maintain existing resources much less incentivize new build. Imposing a cap on wholesale electricity prices at a flat value—especially one as low as the current LCAP of \$2,000/MWh—very well could prevent generators from recovering their fuel-related costs during an extreme weather event that results in exceptional fuel prices. In fact, not all generators would have recovered their variable fuel-related costs during Winter Storm Uri with a \$2,000/MWh price cap. That is the case even if—as some suggested⁹—

⁶ TPPA Comments at 3.

⁷ TSPA Comments at 1.

⁸ In the December 2020 Report on the Capacity, Demand, and Reserves for the ERCOT Region (CDR), there was 3,039 MW of planned solar capacity and 2,581 MW of other planned capacity contributing to a reserve margin of 11,129 MW. See http://www.ercot.com/content/wcm/lists/197379/CapacityDemandandReservesReport_Dec2020.pdf. In the more recent Preliminary Summer 2021 Seasonal Assessment of Resource Adequacy (SARA), there are 2,718 MW of planned solar capacity and 2,771 MW of other planned capacity contributing to a projected reserve margin of 9,764 MW. See http://www.ercot.com/content/wcm/lists/219840/SARA-Preliminary_Summer2021.pdf.

⁹ E.g., TPPA Comments at 3.

generators are eligible for make-whole payments under the reliability unit commitment (RUC) provisions in the Protocols. For one thing, those payments apply only if the generator was subject to a RUC instruction or other make-whole eligible Protocol provision in the first place,¹⁰ but more importantly, those make-whole payments are based on verifiable costs approved by ERCOT and ERCOT recently has taken the position that certain unavoidable fuel-related transportation and storage costs cannot be included in those approved costs.¹¹

For the same reason, the Commission should not at this time lower the FIP multiplier from its current level of 50x, as was suggested by some commenters, to 25x¹² or 15x.¹³ Even if, as suggested by Potomac Economics, a 25x multiplier would typically cover the marginal costs of any generator in ERCOT,¹⁴ the actual costs for fuel (including costs to transport and store that fuel) in an extreme scarcity event could quite conceivably exceed a 25x or 15x multiplier times the FIP, which again only reflect the trading hub price, not the delivered fuel price or other operational costs. As with other proposals, the 50x multiplier should be reviewed as part of a holistic and deliberate review – but the most prudent approach is to leave it in place for this summer to help ensure that generators are not required to operate at a loss during an extreme scarcity event until broader market design changes can be studied and implemented.

B. The Commission Should Defer Action on Suggestions for Seasonal or Event-Based SPM

The suggestions for an alternative SPM—such as one that involves an event-based trigger¹⁵—warrant further consideration, in that they would eliminate the need to track an arbitrary (and clearly flawed) peaker net margin (PNM) calculation and would also reduce the administrative burden of determining and maintaining CONE calculations. However, these

¹⁰ Suggestions (e.g., by NRG) to expand those make-whole provisions to cover situations other than just RUC and mitigated offer caps should be taken up in connection with a broader review of the market design structure, rather than be implemented on a rushed basis in the next couple of months before summer.

¹¹ *Complaint and Request for Emergency Relief by Luminant Energy Company LLC Against the Electric Reliability Council of Texas, Inc.*, Docket No. 51883, ERCOT's Response to Luminant's Request for Emergency Relief (Mar. 11, 2021).

¹² IMM Comments at 2.

¹³ TCAP Comments at 2.

¹⁴ IMM Comments at 2.

¹⁵ E.g., TIEC Comments at 7-8; STEC Comments at 4.

suggestions need to be better fleshed out and vetted, as well as coordinated with any other market changes, and thus should be taken up in the future, as part of a broader evaluation of the market structure.

III. Conclusion

For the reasons stated above, Vistra supports a measured approach, after the end of the legislative session, for evaluating changes to the SPM/PNM/LCAP construct. As a short-term stop gap for 2021, Vistra supports a good cause exemption from the LCAP level in the rule to increase it to the greater of \$4.500/MWh or 50 times the fuel index price for the rest of the year.

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Respectfully submitted.

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